IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5334 of 2007()

CRIME NO. 288/06 OF VARKALA POLICE STATION

PETITIONER : ACCUSED:

H.NIHAS, AGED 26 YEARS, S/O.HAMZA,
KIZHAKKEVILA VEEDU, MELVETTOOR P.O., VETTOOR.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE, VARKALA POLICE STATION,
CRIME.NO.288 OF 2006 OF VARKALA POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5334 of 2007

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Dated this the 17th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Sections 363, 366 and 376 I.P.C. The petitioner had allegedly enticed a girl below the age of 18 to go with him and had sexual intercourse with her. The allegation is that even earlier she had intercourse with him. The girl had allegedly become pregnant in such relationship. Her mother caught her when she was consuming tablets to terminate her pregnancy. She was questioned and at that point she had allegedly gone away with the petitioner. Crime was registered on 16.5.2007. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is not guilty of any offence, though it is a fact that the petitioner was in love with the girl and they have subsequently got married to each other. In these circumstances directions under Section 438 Cr.P.C. may be issued in favour of the petitioner, submits the counsel.

3. The learned Prosecutor does not oppose the application. He only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation. I find merit in the stand taken by the learned Prosecutor. I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioner. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 24.9.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 25.9.07, and 26.9.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of 14 days and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 24.9.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 24.9.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 24.9.2007.

(R. BASANT)
Judge

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